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Gangjian Du, Juanjuan Sun

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THE JUSTIFICATION OF CHINESE TRADITIONAL THOUGHT

ON THE RIGHT TO ADEQUATE FOOD *

Du Gangjian
et
SUN Juanjuan

Abstract

As declared by the Universal Declaration of Human right, the right to adequate food is one of fundamental contents embodying in the right to a standard of living adequate. However, the recognition of this right has developed progressively and its realization still has a long way to go. Undoubtedly, the guarantee of food supply is a fundamental way to ensure a standard living. In this aspect, early in the pre-Qin period, there have been a great number of schools of thought devoting to the broad discussion on the guarantee of food supply, such as Confucianism, Daoism, Mohism and others. Here, it is the purpose of this paper to introduce those humanity based thought and to see how it can enrich its development of the right to adequate food.

Key words: right; food supply; Confucianism

Introduction

When it comes to the food, the Chinese scholars and commentators would like to quote a saying that the governance of a country should be people orientated while people consider the food as the top priority, in other words, to secure the stability of a country, it is of paramount importance to supply the food to its people where the food should be adequate both in the quantity and quality. Actually, it has been the obligation of a state to respect, protect and fulfill the food demand as required by the right to adequate food which is embodied in the right to a standard living.

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Although, the term *right* never used in ancient China, the scholars at that time had raised political and legal concerns about the peoples' living conditions, especially during the Spring and Autumn Period and Warring States Period when we called 'the Contention of a Hundred Schools of Thought'. Among those scholars, there are very well known scholars such as Confucius (Kǒng zǐ) and his Confucianism as well as his followers like Mencius (Mèng Zǐ), Lao Tse (Lǎozǐ) and his Daoism, Micius(Mò zǐ) and his Mohism, etc. Even nowadays, those scholars are still honored by us not only for their scholarly attainments but also their kindnesses for the people. By analysis, we can note that their advocacies on caring people have reached to the claims in the requirements of the right to adequate food. In this case, the study of these thoughts can help us to better understand the necessity and universality of the development of the right to adequate food as well as the enactment of the food safety law which is supposed to realize and protect this right in the form of rule of law.

As far as the protection of human right in the form of rule of law is concerned, those scholars had already noted the relationship between the law and right. Guan Zhong who was a Chinese politician in the Spring and Autumn Period said, 'doing the things follows the law because the law is established according to the right and the right is justified by the Tao which signifies the fundamental or true nature of the world.'¹In other words, everything should be supervised by the law in the condition that law comes from the right and confirms with the Tao. Therefore, we can also see that right is the Tao which is in the form of the law. According to the Guan Zhong, there is a logical relationship among the thing, law, right and Tao from which we can infer that human right is the reason for law and the manifestation of humanity. In Confucianism,² the Tao is the people oriented humanity. To be detail, for the humanity study in the Confucianism, the doctrine of humaneness (Ren ai) was the basic one and can be applied to justify the right to food. Confucius said, 'economy in expenditure and love for men; and the employment of the people at the proper seasons'.³The thought on the employment of his people at the proper seasons means to reduce the heavy burdens of farmers, oppose the excessive exploitation on the farmers and ensure their living. When Confucius said Tsze-ch'an (Zi chan) was a wise and good man, he appreciated his four characteristics and two of them are 'the kindness in nourishing the people and justice in ordering the people'⁴ which resulted from his love and caring of his people. In this case, the nature of the law should be people based humanitarian law and the regulation of the law is to protect the human right based on the humanity.

Therefore, to protect the right to food, it is proper to establish the food safety on the ground of humanity. To further analysis, this paper will generalize seven parts to introduce and illustrate how those Chinese traditional legal or political thought, especially the Confucianism, can justify the right to adequate food, in the hope of serving as a reference point to develop this right in the world wide.

¹ *Guan zi · Xin Shu*.

² When comes to the explanation of the Confucianism or others, this paper has taken the references at the website: <http://chinese.dsturgeon.net/index.html>, for better understanding of the citation, the reader can trace back to the context by note.

³ *The Analects·Xue Er*: <http://chinese.dsturgeon.net/text.pl?node=1082&if=en&remap=gb>.

⁴ *The Analects·Gong Ye Chang*: <http://chinese.dsturgeon.net/text.pl?node=1086&if=en&remap=gb>.

1. Food supply and the right to food

Food supply whether provisions by themselves through cultivation or obtainments from others like buying or relieving should at least ensure the people free from hunger, however, it is only the minimum requirements because according to the right to adequate food, the assurance of food not only require the quantity but also the quality as well as others such as the respect the culture and consideration the venerable people. Herein, to well understand of the right to adequate food, the key term is *adequate*. Correspondingly, the Chinese traditional thoughts on food also not only concentrated on the food supply but also the sufficiency⁵ of such supply.

Firstly, in the traditional study of humanity in China, to ensure the living condition is the basic requirement of humanity where the food supply was the key issue. Besides, there were three other requirements were also as important as the food supply, and they were assurance of clothing, rest and habitation. Nowadays, these four requirements have been embraced in the right to a standard living adequate. For the food supply, there were a lot of different scholars raising their concerns. First of all, it was the Confucius, and later, it was the Mencius. In Confucianism, the core idea was loving people. Undoubtedly, loving people requires the basic assurance of people's living conditions in which the food supply and the sufficiency of such supply are the fundamental needs. Therefore, to enrich the people, the primary application should be the sufficient food supply. When Mencius stated his idea on the condemnation of music and pointed that 'people worried about three things, namely, that the hungry cannot be fed, that the cold cannot be clothed, and that the tired cannot get rest'.⁶ The main philosophy of Mencius is to love each other and help each other. Only in this way, can we set up an ideal society where all the people have enough food to eat, enough cloth to wear and live without troubles. Therefore, what Mencius wanted to express was that people had three basic rights which were right to food, right to cloth and right to rest. By contrast, when considering the food supply, Confucius stressed that the requirements are not only no poverty but also no scarcity. No scarcity has higher requirement on the food storage and food supply. As suggested by Mencius 'in the spring they examined the ploughing, and supplied any deficiency of seed; in the autumn they examined the reaping, and supplied any deficiency of yield'.⁷ That is to say as governors, they should know well of the situation of their people, if the people have the problem with the cultivation in spring they should offer the subsidies as well as in the autumn when the people did not reaped enough to survive.

Similarly, as the general principle of current food safety law that the right to food should be entitled to everyone. According to the right to adequate food, every one has the availability and accessibility of an adequate food, and the related contents go as follows:

The availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture;

⁵ Since the term *adequate* has been elaborated in a very broad sense by the right to adequate food, so when introducing the thoughts of Chinese ancient scholars, the term sufficiency with similar literally meaning would be used to distinguish the current recognition and the limited thought at that time.

⁶ *Condemnation of Music I*: <http://chinese.dsturgeon.net/text.pl?node=579&if=en&remap=gb>.

⁷ *Mengzi-Liang Hui Wang II*: <http://chinese.dsturgeon.net/text.pl?node=1611&if=en&remap=gb>.

Availability refers to the possibilities either for feeding oneself directly from productive land or other natural resources, or for well functioning distribution, processing and market systems that can move food from the site of production to where it is needed in accordance with demand.

The accessibility of food in ways that are sustainable and do not interfere with the enjoyment of other human rights. The accessibility encompasses both economic and physical accessibility.

Economic accessibility implies that personal or household financial costs associated with the acquisition of food for an adequate diet should be at a level such that the attainment and satisfaction of other basic needs are not threatened or compromised. Economic accessibility applies to any acquisition pattern or entitlement through which people procure their food and is a measure of the extent to which it is satisfactory for the enjoyment of the right to adequate food. Socially vulnerable groups such as landless persons and other particularly impoverished segments of the population may need attention through special programmes.

Physical accessibility implies that adequate food must be accessible to everyone, including physically vulnerable individuals, such as infants and young children, elderly people, the physically disabled, the terminally ill and persons with persistent medical problems, including the mentally ill. Victims of natural disasters, people living in disaster-prone areas and other specially disadvantaged groups may need special attention and sometimes priority consideration with respect to accessibility of food. A particular vulnerability is that of many indigenous population groups whose access to their ancestral lands may be threatened.⁸

Secondly, as mentioned above, the consideration on the food supply in the Confucianism also stressed its sufficiency. As Confucius said, ‘if the people have plenty, their prince will not be left to want alone. If the people are in want, their prince cannot enjoy plenty alone’.⁹ In addition to this, to achieve this purpose, the reduction of military spending was necessary. That is to say, since the main claim was to ensure all the people have enough food to eat, enough cloth to wear and live without troubles. So, when considering the fiscal spending, the expenditure on food supply should precede the military spending. When Confucius answered the question raised by Zikong what was the relationship between sufficiency of food and sufficiency of military equipment, Confucius said if it was necessary to give up one of them, then it should be the military equipment because the sufficiency of food was aimed to enrich people. In this case, when a country prepares its fiscal budget, the expenditure on the social assurance should precede its military spending. Besides, Micuis also had similar opinion in this regards and said, ‘Supply is the treasure of a country, armament its claws’,¹⁰ so, only the sufficiency on the food can prevent people from hunger. To realize this, the fiscal budget should well be prepared where the supply of the grain center should be ensured in case of the natural disasters. What is more, Micius also pointed that the war should be against and proposed the main idea as the condemnation of offensive war. If the country started a war, his man will suffer a lot because the government deprived the people of their opportunities

⁸ The UN Economic and Social Council approved General Comment 12: The right to adequate food (E/C.12/1999/5, CESCR d.d.12 May 1999). This reference will be quoted several times to explain the broad sense of the right to adequate food below with the italic words for demonstration.

⁹ *The Analects-Yan Yuan*: <http://chinese.dsturgeon.net/text.pl?node=1093&if=en&remap=gb>.

¹⁰ *The seven causes of anxiety*: <http://chinese.dsturgeon.net/text.pl?node=552&if=en>.

and benefits. And then what will happen after the war is the agriculture would be highly destructed as ‘if it is in spring it will take people away from sowing and planting; if it is in autumn it will take people away from reaping and harvesting. Should they be taken away in either of these seasons, innumerable people would die of hunger and cold’ and ‘innumerable people will die because their food will be cut off and cannot be supplied on account of the great distances of the roads. And innumerable people will be sick and die of the constant danger and the irregularity of eating and drinking and the extremes of hunger and over-eating’.¹¹

However, the rulers at that time never applied this proposal and conducted in the reverse. 2000 years after, with the lessons and experience, many countries have followed this principle to plan their fiscal budget. Regretfully, there are still some countries believe that the expenditure on the war preparation is much more important than the food policy. Under this background, it is worth reiterating the idea of Confucius or Micius to let people understand why we should reduce the military spending and put more money to food supply and as well as the social assurance.

2. Adequacy and right to adequate food

As far as the right to adequate food is concerned, its understanding can be traced back to the Article 25 of the Universal Declaration of Human Rights:

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

And the Article 11 of International Covenant on Economic, Social and Cultural Rights:

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and

¹¹ *Condemnation of Offensive War II* : <http://chinese.dsturgeon.net/text.pl?node=565&if=en>

by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

As far as the right to adequate food is concerned, the most important but also difficult to understanding is the term adequate since the elaboration of this word has go faraway of its literally meaning. Practically, a great consideration has been attached to the illustration of adequacy. As stated by the general comment 12 on the right to adequate food, *‘the concept of adequacy is particularly significant in relation to the right to food since it serves to underline a number of factors which must be taken into account in determining whether particular foods or diets that are accessible can be considered the most appropriate under given circumstances for the purposes of article 11 of the Covenant. The precise meaning of “adequacy” is to a large extent determined by prevailing social, economic, cultural, climatic, ecological and other conditions, while “sustainability” incorporates the notion of long term availability and accessibility.’*

Retrospect to the Chinese ancient thoughts, it was Mencius who justified the importance of the sufficiency which had broader meaning than only sufficient food supply. As he said ‘let it be seen to that their fields of grain and hemp are well cultivated, and make the taxes on them light - so the people may be made rich. Let it be seen to that the people use their resources of food seasonably, and expend their wealth only on the prescribed ceremonies - so their wealth will be more than can be consumed. The people cannot live without water and fire, yet if you knock at a man's door in the dusk of the evening, and ask for water and fire, there is no man who will not give them, such is the abundance of these things. A sage governs the kingdom so as to cause pulse and grain to be as abundant as water and fire. When pulse and grain are as abundant as water and fire, how shall the people be other than virtuous?’¹² As the main claim of study of humanity by Mencius, the assurance of the sufficiency describing as ‘there is no man who will not give them, such is the abundance of these things’ could be used as the standard to predict where it is the good governance or not. The question here is what can be used as a standard for the sufficiency? To be sufficient, people should be well fed and have no starvation, in other words, the realization of the freedom from hunger. Besides, to prevent the people from hunger in the food shortage years, Micius suggested that the salaries of the official at all levels should be reduced accordingly at the beginning of those years, namely, ‘without food the people will not observe order. Therefore, food should be secured, land cultivated and expenditures cut down. When all the five grains are gathered, all the five tastes will be offered the ruler; when not all gathered, the five tastes will not be all offered. Failure of one grain is called dearth; failure of two grains is called scarcity; failure of three grains is called calamity; failure of four grains is called want; and failure of all five grains is called famine. When the country is in dearth, all the salaries of the officials below the rank of the minister will be reduced by one-fifth; in scarcity, they will be reduced by two-fifths; in calamity, they will be reduced by three-fifths; in want, they will be reduced by four-fifths; and when famine is in the country there will be no salaries beyond their rations.’¹³

¹² Mengzi: *Jin Xin I*: <http://chinese.dsturgeon.net/text.pl?node=1791&if=en>.

¹³ *The seven causes of anxiety*: <http://chinese.dsturgeon.net/text.pl?node=552&if=en>.

3. The adequacy of the quantity and quality

As noted above, there are many aspects to understand what is the real meaning of adequacy in the right to adequate food, here the two perspectives would be restated again, which are the adequacy in the perspectives of both quantity and quality.

Firstly, it is the declaration of article 11 that not only stresses the assurance of the right to adequate food and the freedom from hunger, but also has imposed the associated requirements on its contracting state from these two perspectives.

It is easy to understand the requirement on the quantity since if there is no sufficient food to be supplied; there would not be no possibility to realize the freedom from hunger, let alone the right to adequate food. And when it comes to quality, the concern here is related to the dietary needs and food safety as stated by the right to adequate food, stating as follows:

Dietary needs implies that the diet as a whole contains a mix of nutrients for physical and mental growth, development and maintenance, and physical activity that are in compliance with human physiological needs at all stages throughout the life cycle and according to gender and occupation. Measures may therefore need to be taken to maintain, adapt or strengthen dietary diversity and appropriate consumption and feeding patterns, including breastfeeding, while ensuring that changes in availability and access to food supply as a minimum do not negatively affect dietary composition and intake.

Free from adverse substances sets requirements for food safety and for a range of protective measures by both public and private means to prevent contamination of foodstuffs through adulteration and/or through bad environmental hygiene or inappropriate handling at different stages throughout the food chain; care must also be taken to identify and avoid or destroy naturally occurring toxins.

Secondly, so called food sufficiency by Mencius has also taken account of food quantity and food quality, as he said, ‘therefore an intelligent ruler will regulate the livelihood of the people, so, as to make sure that, for those above them, they shall have sufficient wherewith to serve their parents, and, for those below them, sufficient wherewith to support their wives and children; that in good years they shall always be abundantly satisfied, and that in bad years they shall escape the danger from perishing. After this he may urge them, and they will proceed to what is good, for in this case the people will follow after it with ease. Now, the livelihood of the people is so regulated, that, above, they have not sufficient wherewith to serve their parents, and, below, they have not sufficient wherewith to support their wives and children. Notwithstanding good years, their lives are continually embittered, and, in bad years, they do not escape perishing. In such circumstances they only try to save themselves from death, and are afraid they will not succeed. What leisure has they to cultivate propriety and righteousness? If your Majesty wishes to effect this regulation of the livelihood of the people, why not turn to that which is the essential step to it? Let mulberry-trees be planted about the homesteads with their five acres, and persons of fifty years

may be clothed with silk. In keeping fowls, pigs, dogs, and swine, let not their times of breeding be neglected, and persons of seventy years may eat flesh. Let there not be taken away the time that is proper for the cultivation of the farm with its hundred acres, and the family of eight mouths that is supported by it shall not suffer from hunger. Let careful attention be paid to education in schools, the inculcation in it especially of the filial and fraternal duties, and grey-haired men will not be seen upon the roads, carrying burdens on their backs or on their heads. It never has been that the ruler of a State where such results were seen, the old wearing silk and eating flesh, and the black-haired people suffering neither from hunger nor cold, did not attain to the royal dignity'.¹⁴

As stated above, when Mencius considered the question of sufficiency, he noted the importance of the quantity that food supply should be assurance whether there was food shortage due to the bad weather or not, people with different ages should live with a proper standard especially the caring of the old people, and each family should be given certain acres of land to keep farm work. In the opinion of Mencius, all of these are the necessities to keep the livelihood.

Honestly speaking, the life described by Mencius has enjoyed a very high living standard; by contrast, some current allegations still put the freedom from hunger as the only necessity to make people survival. It is disputable that limitation the understanding of the *adequate* only to solve the problem of starvation, because such sufficiency even can ensure the people to survival but can not keep them having a decent living. As we known, 2000 years ago, there was man named Mencius had pointed to keep living, the assurance should go as 'at fifty, warmth cannot be maintained without silks, and at seventy fashes is necessary to satisfy the appetite. Persons not kept warm nor supplied with food are said to be starved and famished, but among the people of king Wen,¹⁵ there were no aged who were starved or famished'.¹⁶ By this means, if the governor is very wisdom and warm hearted, he would not let his people die from starvation. Besides, a high level of social assurance would be established where the old people could live in a comfortable condition. However, with 2000 years of development, we still did not realize this level in many poverty stricken areas in China or some places else in the other countries.

4. The freedom from hunger and the right to adequate food

It is the common recognition that the assurance of the freedom from hunger would be the first step to full realization of the right to adequate food. And the states should take, individually and through international co-operation, the measures, including specific programs to attain these goals. In this point, many Chinese scholars in the history had stated the importance to get rid of the starvation because they believed that 'only people enrich in the eating, clothing and housing, can they behavior with the courtesy and well cherish the honor and shame the wrong doing'.

Firstly, it was Confucius who condemned that 'oppressive government is more terrible than tigers'. However, the situation at his time went worse and worse, depressed by this, he pointed out 'the kingdom has long been without the principles of truth and right'¹⁷ and said to his students, 'if

¹⁴ *Mengzi-Liang Hui Wang I* :<http://chinese.dsturgeon.net/text.pl?node=1603&if=en>.

¹⁵ King Wen of Zhou was the founder of the Zhou Dynasty and respected for his honorable governing.

¹⁶ *Mengzi-Liang Hui Wang I* :<http://chinese.dsturgeon.net/text.pl?node=1603&if=en>.

¹⁷ *The Analects-Ba Yi* : <http://chinese.dsturgeon.net/text.pl?node=1084&if=en>.

right principles prevailed through the empire, there would be no use for me to change its state'.¹⁸ This was just Confucius who felt it was his obligation to criticize the oppressive government, especially the situations like the sufficiency on military spending exceeded the food spending, the rulers cared about the war preparation rather than his people which led to the people had neither property nor courtesy and resorted to violation for living.

Besides, Confucius also condemned the abuse of workforce and proposed as 'to rule a country of a thousand chariots, there must be reverent attention to business, and sincerity; economy in expenditure, and love for men'.¹⁹

Secondly, Mencius and Xun Zi who were also famous thinker in Confucianism further elaborated Confucius' strong caring of the people in their works. Mencius said, 'after the death of Yao and Shun, the principles that mark sages fell into decay. Oppressive sovereigns arose one after another, who pulled down houses to make ponds and lakes, so that the people knew not where they could rest in quiet; they threw fields out of cultivation to form gardens and parks, so that the people could not get clothes and food'²⁰ which implied that for a living, the requirements on food, clothing and housing are necessary. There was an example of Guan zhong. When he was appointed prime minister by Duke Huan of Qi, he stated a series of reforms and helped Duke Huan gain hegemony among the states. According to the biographies of Guan zhong in *the Records of the Grand Historian*, when he took the responsibilities of governance in Qi, he stated the economical reform. After that, all the goods free moved within the states, economy developed prosperously, the states raised the power among others and the governance applied in the favor of people. Guan zhong himself put it as 'only people enrich in the eating, clothing and housing, can they behavior with the courtesy and well cherish the honor and get rid of the shame. Besides, the king should make a good example to his people in the Compliance with Laws, and then all the people would get closer. If no one respected the rules, morals, the country would go to perish. Therefore, the orders of the country can be applied as smoothly as water flowing so long as it favored by people and was easy to read and understand. For the people, providing the things what they wanted and putting away the things what they opposed are enough.

However, during the Warring States period, the ruler imposed heavily tax on the farmers and only cared about their own enjoyments rather than people' living, though disappointed by such reality, Mencius continued to suggest in the hope of ameliorating the ruling. So, when his criticized the maladministration he also warned that, 'they are only men of education, who, without a certain livelihood, are able to maintain a fixed heart. As to the people, if they have not a certain livelihood, it follows that they will not have a fixed heart. And if they have not a fixed heart, there is nothing which they will not do, in the way of self-abandonment, of moral deflection, of depravity, and of wild license. When they thus have been involved in crime, to follow them up and punish them - this is to entrap the people. How can such a thing as entrapping the people be done under the rule of a benevolent man?'²¹ So, by this means, the people were forced to commit crime because they were deprived of the condition for keeping living in which the accessibility to food and land was

¹⁸ *The Analects-Wei Zi* : <http://chinese.dsturgeon.net/text.pl?node=1099&if=en>.

¹⁹ *The Analects- Xue Er*: <http://chinese.dsturgeon.net/text.pl?node=1082&if=en>.

²⁰ *Mengzi-Teng Wen Gong II*: <http://chinese.dsturgeon.net/text.pl?node=1659&if=en&remap=gb>.

²¹ *Mengzi-Liang Hui Wang I* : <http://chinese.dsturgeon.net/text.pl?node=1603&if=en&remap=gb>.

the minimal necessity. In other words, to prevent the people from crime, the assurance of food supply is essential. As suggested by Xunzi, several measures should be made to cut down annual expenditures in order to enrich the people. First, the access to land could be secured by distributing the land to farms. Second, the farming season should be followed accordingly. Third, the taxes should be reducing to appropriate extent. And fourth, the revenue should be increased in a broad way and the expenditure should be economized.

Thirdly, though the Daoism is different from the Confucianism, they also have some similarities in the concerns of the people's living. As Lao tes said here, 'the people suffer from famine because of the multitude of taxes consumed by their superiors',²² by contrast, those superiors led a very luxury and corrupt lives that 'their courtyards and buildings shall be well kept, but their fields shall be ill-cultivated, and their granaries very empty. They shall wear elegant and ornamented robes, carry a sharp sword at their girdle, pamper themselves in eating and drinking, and have a superabundance of property and wealth; - such (princes) may be called robbers and boasters. This is contrary to the Dao surely'.²³ So, as a warning, Lao tes said, 'there is no guilt greater than to sanction ambition; no calamity greater than to be discontented with one's lot; no fault greater than the wish to be getting. Therefore the sufficiency of contentment is an enduring and unchanging sufficiency';²⁴ and 'it is better to leave a vessel unfilled, than to attempt to carry it when it is full. If you keep feeling a point that has been sharpened, the point cannot long preserve its sharpness. When gold and jade fill the hall, their possessor cannot keep them safe. When wealth and honours lead to arrogancy, this brings its evil on itself. When the work is done, and one's name is becoming distinguished, to withdraw into obscurity is the way of Heaven'.²⁵

As avoiding the faults mentioned above, a good governance is essential for which Lao tes suggested three precious things which he prized and held fast. The first is gentleness; the second is economy; and the third is shrinking from taking precedence of others.²⁶ Besides, three things should be put away and they are excessive effort, extravagance, and easy indulgence.²⁷

What mainly claimed by Lao tes is that the governors should be gentle, economic and modest. If they were greed and exploited to much they would endanger their own ruling. And to realize this, they should let the people do their own business. Therefore, for an ideal society, we can look forward to waht 'they thought their (simple) food pleasant, and their (plain) clothing beautiful. They were happy in their (simple) manners, and felt at rest in their (poor) dwellings. (The people of) neighbouring states might be able to descry one another; the voices of their cocks and dogs might be heard (all the way) from one to the other; they might not die till they were old; and yet all their life they would have no communication together.' In this case, the ruler would have nothing to do as 'Therefore the sage manages affairs without doing anything, and conveys his instructions without the use of speech'.²⁸

²² *Dao De Jing* : article 75, <http://chinese.dsturgeon.net/text.pl?node=11591&if=en&remap=gb>.

²³ Ibid, article 53.

²⁴ Ibid, article 46.

²⁵ Ibid, article 9.

²⁶ Ibid, article 67.

²⁷ Ibid, article 29.

²⁸ Ibid, article 80.

5 . Cultural acceptability

In the right to adequate food, it incorporates the requirement on the cultural acceptability which *the need also to take into account, as far as possible, perceived non Nutrient based values attached to food and food consumption and informed consumer concerns regarding the nature of accessible food supplies*. The mention of cultural acceptability is very meaningful but the understanding can be broader. For a human being, to have a decent life means the dignity should be respected. In china, we have a saying that for a decent man, he would dying rather than begging for food, because the spiritual fulfillment is more important then material sufficiency. The point herein is that when you do something like offering, the attitude is very important that you should pay the respect to the person who is offered even he is in the misery. As said by Mencius that ‘to feed a scholar and not love him, is to treat him as a pig. To love him and not respect him is to keep him as a domestic animal. Honoring and respecting are what exist before any offering of gifts’;²⁹ and ‘here are a small basket of rice and a platter of soup, and the case is one in which the getting them will preserve life, and the want of them will be death; if they are offered with an insulting voice, even a tramper will not receive them, or if you first tread upon them, even a beggar will not stoop to take them’.³⁰

Whether emphasizing the spiritual fulfillment is the striking difference between the only existence /subsistence and having a life. For existence, with the material supply like food is enough. Animal can be ensured by this to keep living, but man is different. For human being, free from hunger is only the fundamental requirement and for an adequate standard of living, the requirements with regard to adequacy should be ensured. As claimed by Mencius, life is not only free from hunger but also rich in supply including food, clothing and housing but also living with dignity. To realize this, the protection of human right is just the right way. It can be said that not only the right to adequate food, but also the right to speech, the right to press are necessary to be applied, can the people fully attain both the material and spiritual enjoyments.

6. Sustainability

When it comes to right to adequate food, the notion of sustainability is intrinsically linked *to the notion of food security, implying food being accessible for both present and future generations. To ensure the sustainability, the food should be supplied or accessed in a long term in which people can obtain the food by the access to land or a well operating system of distribution*. Similarly, when Mencius raised his suggestion for good governance, he claimed not only the importance of the access to land permanently but also the respect of farming season to improve the agricultural and ensure the output be more than can be eating.

However, the rulers ignored his suggestions and kept the oppressive ruling, and in the end it was the people who suffering a lot and the state went perishing. As observed by Mencius ‘the rulers of

²⁹ Mengzi·Jin Xin I : <http://chinese.dsturgeon.net/text.pl?node=1791&if=en&remap=gb>.

³⁰ Mengzi·Gao Zi I: <http://chinese.dsturgeon.net/text.pl?node=1754&if=en&remap=gb>.

those States rob their people of their time, so that they cannot plough and weed their fields, in order to support their parents. Their parents suffer from cold and hunger. Brothers, wives, and children are separated and scattered abroad'.³¹ In this case, he emphasized all the time the importance of improvement of agriculture which is the basic way to ensure the food supply and people's living. What is more, the requirement here is the more than can be eaten. To realize this, the requirements went as follows, 'if the seasons of husbandry be not interfered with, the grain will be more than can be eaten. If close nets are not allowed to enter the pools and ponds, the fishes and turtles will be more than can be consumed. If the axes and bills enter the hills and forests only at the proper time, the wood will be more than can be used. When the grain and fish and turtles are more than can be eaten, and there is more wood than can be used, this enables the people to nourish their living and mourn for their dead, without any feeling against any'.³²

7. The right to food and the obligation of state

Today, in many legal orders human rights are seen as basic norms representing fundamental values. They can be understood to define and protect the position of people within the given legal order, in particular the national state. Each and every person is entitled to a sphere of autonomy (freedom) within the legal order and to minimum conditions of dignified life.³³ For this purpose the power and act of a state must be restricted. Therefore, human right reflects the basic values and principles of those laws which restrain the national power and other public power by establishing the national obligation. Obviously, the right to food is a basic human right which requires the nation to assume an obligation of guarantee.

The right to adequate food, like any other human right, imposes three types or levels of obligations on States parties: *the obligations to respect, to protect and to fulfil. In turn, the obligation to fulfil incorporates both an obligation to facilitate and an obligation to provide. The obligation to respect existing access to adequate food requires States parties not to take any measures that result in preventing such access. The obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to fulfil (facilitate) means the State must proactively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfil (provide) that right directly. This obligation also applies for persons who are victims of natural or other disasters.*

Although the obligations of the state have been well claimed in this right with its elaboration, if the state failed to fulfill its obligation, then where is the remedy. To this regard, the issue should be raised is the justifiability of this right to adequate food. The analysis of obligations makes us understand how we can realize those right associated with food, however, the realization in reality can only be attained by the assurance that the individual or group can hold the authorities to their

³¹ *Ibid.*

³² Mengzi-Liang Hui Wang I : <http://chinese.dsturgeon.net/text.pl?node=1603&if=en&remap=gb>.

³³ Bernd van der Meulen: The right to feed oneself: food in the struggle for human right as entitlement, translated by Sun Juanjuan in Chinese, Pacific Journal, (11), 1-12, 2008.

obligations, that is to say they can lay a claim to it if the government fail to assume its obligation. For this reason it is an important question whether or not the right to food is justifiable. In the view of the special rapporteurs, the right to food should be accepted – at the very least as far as its negative obligations are concerned – as justifiable. That is to say that individuals should have access to the (national)courts to defend their right to food in case national authorities unduly restrict it. Justifiability of the right to food turns this right into an entitlement. Once justifiability of negative obligations is accepted, it is accepted that the right to food in particular and social, economic and cultural rights more in general are a matter that regards the courts. Once that foot is between the doors, the question can be addressed to what extent exactly they are a matter of the courts.³⁴

The obligation imposed on the state is aimed to protection the human rights, and the state should take steps to realize, to protect rather than deprive of them. Although, the Chinese ancient scholars like Confucius and Mencius never used the term as ‘right’ in their claims, what they claimed to assurance of a standard of living had been a kind of right to the people. Because when they said such suggestions to the rulers, they also pointed out if the rules failed to fulfill, they should bear the political or legal ability, namely lose the control of their states. In some cases, it would be the people who suffered too much to bear and managed to overthrow the government. To avoid such failure, the government should undertake its obligation in two ways. Firstly, it is the negative obligation which abstain from action that the government should spare in the use of punishments and fines, make the taxes and levies light, and not disturb the farmers when the farming season coming. Secondly, it is the positive obligation that the government should offer the support and remedy to its people. Especially, the government should offer the social assurance to the weak people like children and old people, as said by the Mencius, ‘the widowers, the widows, the solitaires and the orphans are four classes who are the most destitute of the people and have none to whom they can tell their wants’.³⁵ In addition, Micuis also recommended the support of the government as well as mutual help in society. ‘Thus the old and those who have neither wife nor children will have the support and supply to spend their old age with, and the young and weak and orphans will have the care and admonition to grow up in. When universal love is adopted as the standard, then such are the consequent benefits’.³⁶ Besides, ‘To be an upright ruler of the world one should first attend to his people and then to himself. Therefore when he finds his people hungry he would feed them, and when he finds them cold he would clothe them. In their sickness he would minister to them, and upon their death he would bury them. Such is the word and such is the deed of the universal ruler’.³⁷

Among those scholars, Mencius is always respected by his pointed critiques of the maladministration and bold proposal of good governance, so when discussing the obligation of the state, it is the opinion of Mencius which is worth mentioning one after another.

First of all, for the taxation, the number of various taxes should be appropriate, otherwise it will be the people suffer a lot and have difficult to live. As described by him ‘there are the exactions of

³⁴ Ibid.

³⁵ *Mengzi-Liang Hui Wang II* : <http://chinese.dsturgeon.net/text.pl?node=1611&if=en&remap=gb>.

³⁶ *Universal love III* : <http://chinese.dsturgeon.net/text.pl?node=563&if=en&remap=gb>.

³⁷ Ibid.

hempen-cloth and silk, of grain, and of personal service. The prince requires but one of these at once, deferring the other two. If he required two of them at once, then the people die of hunger. If he required the three at once, then fathers and sons are separated.’³⁸ With the taxation in the reasonable proportion, it is facilitate to reduce the heavy burden of farmers and ensure their lives. However, the reality at that time was just opposite.

Secondly, since the rulers exploited his people too much and conducted without respect of the natural and economic rulers, Mencius condemned that ‘in their kitchens, there is fat meat. In their stables, there are fat horses. But their people have the look of hunger, and on the wilds there are those who have died of famine. This is leading on beasts to devour men. Beasts devour one another, and men hate them for doing so’³⁹ In his opinion, if such situation happened, the governors should bear their liability, at that time, it was always the sentence to death. And for good governance, the governor should follow the farming season and ensure people’s living from birth to death is a way to good governance. The special claim here is that not only a standard living is important to people, but also a death with dignity and funeral ceremony, namely, both of these are the main content of a standard living. In addition, the assurance of aged people is vital which can be regarded as a yardstick to see whether it was a good governance because in his opinion, ‘If there were a prince in the kingdom, who knew well how to nourish the old, all men of virtue would feel that he was the proper object for them to gather to.’⁴⁰

Thirdly, it is noted that Mencius had raised several idea on the market and customs. For a prosperous economical development, the free movement of goods, people and levy the tax are both essential. ‘If, in the market-place of his capital, he levy a ground-rent on the shops but do not tax the goods, or enforce the proper regulations without levying a ground-rent - then all the traders of the kingdom will be pleased, and wish to store their goods in his market-place. If, at his frontier-passes, there be an inspection of persons, but no taxes charged on goods or other articles, then all the travelers of the kingdom will be pleased, and wish to make their tours on his roads. If he require that the husbandmen give their mutual aid to cultivate the public fled, and exact no other taxes from them - then all the husbandmen of the kingdom will be pleased, and wish to plough in his fields. If from the occupiers of the shops in his market-place he do not exact the fine of the individual idler, or of the hamlet’s quota of cloth, then all the people of the kingdom will be pleased, and wish to come and be his people.’⁴¹ Since the globalization is the trend for goods, the idea of Mencius can give us a justification.

Last but not least, it has been mentioned before that Mencius claimed the importance of the access to land, especially the stress on the time which should be permanent which can be regarded as the protection of the farmers’ property. Truly, only the property is ensured, namely, the assurance of the access to the land permanent, can the farmer enrich and stand a chance in future.

³⁸ *Mengzi Jin Tian II* : <http://chinese.dsturgeon.net/text.pl?node=1840&if=en&remap=gb>.

³⁹ *Mengzi Teng Wen Gong II* : <http://chinese.dsturgeon.net/text.pl?node=1659&if=en&remap=gb>.

⁴⁰ *Mengzi Jin Xin I* : <http://chinese.dsturgeon.net/text.pl?node=1791&if=en&remap=gb>.

⁴¹ *Mengzi Gong Sun Chou I* : <http://chinese.dsturgeon.net/text.pl?node=1628&if=en&remap=gb>.

Conclusion

With the analysis of the Chinese traditional thoughts mainly on the study of humanity, the needs of eating, clothing and housing which are now regarded as human right are related to each other and should be protected as basic right to a standard living. Currently, there is an elaborated theory on this right and the great efforts have been made to its realization. It is true the development of economy is an effect way to ensure the food supply, but it is unreasonable that limitation this right only to free from hunger because as a human right, the dignity and spiritual fulfillment are also justified. When Confucius answered the question of Ai Gong what is the great rite, he said, 'With the ancients in their practice of government the love of men was the great point; in their regulation of this love of men, the rules of ceremony was also the great point; in their regulation of those rules, reverence was the great point. love and respect lie at the foundation of government'.⁴²

Therefore, when we claim a right to adequate food, we should distinguish its minimal requirement and core contents. It can be understandable that the realization of the core contents may progress step by step with the development but there is no excuse for delay the fulfillment the minimal requirement. In this case, the developed countries and developing countries should assume their obligation to respect, to protect and to fulfill this right to adequate food.

⁴² *Ai Gong Wen* : <http://chinese.dsturgeon.net/text.pl?node=10241&if=en&remap=gb>.